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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

KATHERINE WILLIAMS,)	No. C 08-00026 WHA
)	
Plaintiff,)	DEFENDANT'S RESPONSE TO
)	PLAINTIFF'S DISCOVERY DISPUTE
v.)	
)	
JOHN E. POTTER, POSTMASTER)	Date: June 11, 2008
GENERAL,)	Time: 2:00 p.m.
)	Ctrm: 9
Defendant.)	Before: Hon. William Alsup

INTRODUCTION

Pursuant to this Court's Order filed May 30, 2008 [Docket No. 43], defendant hereby responds to Plaintiff's letter dated May 26, 2008. [Docket No. 44].¹ Generously construed, the letter seeks an order compelling production of unspecified documents or unspecified sanctions on account of the governments wholesale failure to produce documents.

Plaintiff is confused as to what she is entitled and has, in any event, withdrawn her request for relief. Declaration of Abraham A. Simmons, Exh. 9 (filed herewith). Plaintiff has tacitly acknowledged in a letter dated May 28, 2008, that this Court should disregard her letter dated May 26, 2008. Plaintiff acknowledged she received documents and, in fact, she has

¹ The docket entry for the Court's Order [Docket No. 43] refers to Docket No. 42. That document, however, is a letter dated May 12, 2008, a letter that makes no request for a court order.

1 received all the documents to which she was entitled. No relief is required or appropriate.

2 In addition, Plaintiff's correspondence demonstrates a fundamental lack of understanding
3 regarding the procedures that are available to her in her efforts to conduct discovery which will
4 likely lead to additional discovery disputes.

5 FACTS

6 On April 10, 2008, Plaintiff served and filed a four-page discovery request. [Docket No.
7 36.] The discovery request may fairly be interpreted as contained a list of persons and documents
8 which Plaintiff divided into three groups: (1) information requested from the government,
9 (2) information Plaintiff claims to have already possessed and (3) a list of persons Plaintiff
10 wanted "to be put under oath" or, as an alternative, that "you [the government] subpoena the
11 information." Docket No. 44 at 1.

12 On April 30, 2008, plaintiff made a "2nd Request For Disclosure." The Second Request
13 stated that plaintiff intended to prove her claims with documents requested in the April 10, 2008,
14 letter and provided a May 12, 2008 deadline for compliance. Declaration of Abraham A.
15 Simmons ("Simmons Decl."), Exh. 2.

16 On May 1, 2008, Plaintiff wrote a letter acknowledging receipt of defendant's initial
17 disclosures. Simmons Decl., Exh. 3. Plaintiff suggested that a response to her April 10, 2008
18 discovery requests were overdue and again stated she would enforce a May 12, 2008, deadline
19 for compliance.

20 On May 9, 2008, Defendant delivered to Plaintiff timely written responses, including
21 objections, to her April 10, 2008, discovery requests. Simmons Decl., Exh. 4.

22 On May 12, 2008, Plaintiff made a "3rd Request for Discovery." The letter asserted that
23 Plaintiff would seek relief from the Court on May 23, 2008, if the documents were not produced.
24 Simmons Decl., Exh. 5.

25 On May 20, 2008, Defendant requested from plaintiff her preference regarding whether
26 she would rather receive the responsive documents on paper or in electronic form. Simmons
27 Decl., Exh. 6. The email stated "I am preparing to forward to you the documents referenced in
28 my response and referenced in my initial disclosures." Plaintiff never responded.

1 On May 26, 2008, Plaintiff prepared a letter to the Court requesting an order compelling
2 production of the documents or sanctions. Simmons Decl., Exh. 7. It is apparent from the text of
3 the letter that Plaintiff erroneously presumed that the documents she would be receiving would
4 be only another copy of defendant's pleading entitled "Initial Disclosures," not the documents
5 referenced therein and not the documents responsive to her discovery requests.

6 On May 27, 2008, Defendant delivered to Plaintiff documents responsive to her request
7 and documents referenced in Defendant's initial disclosures. *See* Simmons Decl., Exh. 8.

8 On May 28, 2008, Plaintiff requested that the Court "disregard letter dated May 26, 2008
9 because the defendant has sent me requested documents by way of messenger . . ." Simmons
10 Decl., Exh. 9.

11 On May 29, 2008, Plaintiff wrote a letter seeking additional documents seeking
12 information not previously requested. Simmons Decl., Exh. 10.

13 ANALYSIS

14 The scope of discovery is controlled by Rule 26. Under Rule 26, plaintiff is entitled to
15 only such documents and responses to interrogatories as is "reasonably calculated to lead to the
16 discovery of admissible evidence." Fed. R. Civ. P. 26(b).

17 Here, Defendant provided a timely response and delivered the documents in a timely
18 fashion. The responses provided documents that were reasonably calculated to lead to the
19 discovery of admissible evidence. Fed. R. Civ. P. 26(b). Plaintiff clearly has withdrawn her
20 letter seeking an order to compel disclosure of documents. Simmons Decl., Exh. 9. Plaintiff
21 apparently now would like to receive additional documents (Simmons Decl., Exh. 10); however,
22 this latest request is not properly before the court. To the extent that Plaintiff seeks a further
23 response (i.e., regarding her April 10, 2008 discovery requests that defendant subpoena
24 documents for her or take other actions to prepare her discovery), these requests clearly are
25 improper and Defendant timely objected to them.

26 Similarly, to the extent that Plaintiff seeks sanctions, such a request is not properly
27 noticed and is not justified on the merits. *See* Fed. R. Civ. P. 37(b); *See United States v. Kitsap*

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1 *Physicians Serv.*, 314 F.3d 995, 1001 (9th Cir.2002).

2 **CONCLUSION**

3 If Plaintiff still is seeking any type of relief, she is not entitled to it. Plaintiff's motion
4 should be denied in its entirety.

5 Respectfully submitted,

6 JOSEPH P. RUSSONIELLO
7 United States Attorney

8 Dated: June 6, 2008

9 /s/
10 ABRAHAM A. SIMMONS
11 Assistant United States Attorney
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